

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

EMPIRICAL FOODS, INC.,

Plaintiff,

vs.

8:19CV457

PRIMUS BUILDERS, INC.,

Defendant.

vs.

AMENDED PROGRESSION ORDER

SWISSLOG LOGISTICS, INC.,

Third-Party Defendant.

IT IS ORDERED that the plaintiff's unopposed motion, (Filing No. 241), is granted and the final progression order is amended as follows:

- 1) The trial and pretrial conference will not be set at this time. A status conference to discuss case progression, the parties' interest in settlement, and the trial and pretrial conference settings will be held with the undersigned magistrate judge on **September 13, 2022 at 9:00 a.m.** by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 2) The deadline for completing written discovery under Rules 33, 34, 36 and 45 of the Federal Rules of Civil Procedure is April 29, 2022. Motions to compel written discovery under Rules 33, 34, 36, and 45 must be filed by June 14, 2022.

Note: A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned magistrate judge to set a conference for discussing the parties' dispute.

- 3) The deadlines for identifying expert witnesses expected to testify at the trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), is April 1, 2022.

- 4) The deadlines for complete expert disclosures for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

Initial reports:	July 1, 2022.
Responsive reports:	September 1, 2022.
Reply reports:	October 3, 2022.

- 5) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, are:

Fact depositions:	October 3, 2022
Expert depositions:	January 3, 2023

- 6) The deadline for filing motions to dismiss and motions for summary judgment (not including the issue of empirical's damages) is March 1, 2023.
- 7) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is March 1, 2023.
- 8) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.
- 9) All other deadlines in previously set by the court are unchanged. Any requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

Dated this 25th day of January, 2022.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge